

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
Southern Division

ILENE FELDMANN  
3300 South Tamarack Drive, Apt. E209  
Denver, CO 80231

Plaintiff,

v.

Civil Action No.: \_\_\_\_\_

NVR, INC.  
11700 Plaza American Drive  
Reston, VA 20190

SERVE: The Prentice-Hall Corporation  
System  
7 St. Paul Street, Suite 1660  
Baltimore, MD 21202

and

RYAN HOMES  
11700 Plaza American Drive  
Reston, VA 20190

SERVE: The Prentice-Hall Corporation  
System  
7 St. Paul Street, Suite 1660  
Baltimore, MD 21202

and

NV HOMES  
11700 Plaza American Drive  
Reston, VA 20190

SERVE: The Prentice-Hall Corporation  
System  
7 St. Paul Street, Suite 1660  
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and

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410-539-1122  
FAX: 410-547-1261

**CLASSIC GROUP, LLC**  
**8120 Woodmont Avenue, Suite 300**  
**Bethesda, MD 20814**

**SERVE: Stephen A. Eckert**  
**8120 Woodmont Avenue,**  
**Suite 300**  
**Bethesda, MD 20814**

**and**

**MONTGOMERY COUNTY, MARYLAND**  
**101 Monroe Street, 2<sup>nd</sup> Floor**  
**Rockville, MD 20850**

**SERVE: Isaiah Leggett, County Exec.**  
**101 Monroe Street, 2<sup>nd</sup> Floor**  
**Rockville, MD 20850**

**Defendants.**

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**COMPLAINT**

COMES NOW the Plaintiff, Ilene Feldmann, by and through her undersigned attorneys, Stephen M. Gensemer and Ashcraft & Gerel, LLP, and by way of her Complaint against the Defendants, NVR, Inc., Ryan Homes, NV Homes, Classic Group, LLC and Montgomery County, Maryland (hereinafter “Montgomery County”) states as follows:

**JURISDICTION**

1. Jurisdiction of this Court is founded on diversity of citizenship and amount in controversy, 28 U.S.C. § 1332;

- A. Plaintiff Ilene Feldmann is a natural person residing in Colorado.
- B. Defendant NVR, Inc. is a company incorporated under the laws of the

State of Virginia, having its principal place of business in the State of Virginia, which routinely conducts and transacts business in the state of Maryland. Specific to this case, Defendant NVR, Inc. is the owner and developer of the Parklands Development located in Gaithersburg, Maryland, which includes the maintenance of the median at the intersection of West Watkins Mill Road and Forest Preserve Drive.

C. Defendant Ryan Homes is a company incorporated under the laws of the State of Virginia, having its principal place of business in the State of Virginia, which routinely conducts and transacts business in the state of Maryland. Specific to this case, Defendant Ryan Homes is the owner and developer of the Parklands Development located in Gaithersburg, Maryland, which includes the maintenance of the median at the intersection of West Watkins Mill Road and Forest Preserve Drive.

D. Defendant NV Homes is a company incorporated under the laws of the State of Virginia, having its principal place of business in the State of Virginia, which routinely conducts and transacts business in the state of Maryland. Specific to this case, Defendant NV Homes, Inc. is the owner and developer of the Parklands Development located in Gaithersburg, Maryland, which includes which includes the maintenance of the median at the intersection of West Watkins Mill Road and Forest Preserve Drive.

E. Defendant Classic Group, LLC is a company incorporated under the laws of the State of Maryland, having its principal place of business in the State of Maryland, which routinely conducts and transacts business in the state of Maryland. Specific to this case, Defendant Classic Group, LLC is the owner of the land that encompasses the Parklands Development located in Gaithersburg, Maryland, which includes the maintenance of the median

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at the intersection of West Watkins Mill Road and Forest Preserve Drive.

F. Defendant Montgomery County is a county in the State of Maryland in which the Parklands Development is located in Gaithersburg, Maryland, which includes the maintenance of the median at the intersection of West Watkins Mill Road and Forest Preserve Drive.

G. The amount in controversy, exclusive of interests and costs, the sum of \$75,000.00.

**FACTS COMMON TO ALL COUNTS**

2. The Plaintiff, Ilene Feldmann, incorporates by reference the allegations of paragraph 1 herein.

3. On or about March 15, 2011 at approximately 3:00 p.m., the Plaintiff, Ilene Feldmann, was walking on the sidewalk of West Watkins Mill Road near the intersection with Forest Preserve Drive in Gaithersburg, Maryland.

4. The Plaintiff, Ilene Feldmann, while exercising due care and without any contributory negligence of her own, attempted to cross over Forest Preserve Drive when she was caused to trip and fall by an uneven curb at the apron of the island median.

5. There were no warning signs, markings or other indicators of this dangerous condition.

**COUNT I**  
**(Defendant NVR, Inc.- Negligence)**

6. The Plaintiff, Ilene Feldmann, incorporates by reference allegations of paragraphs 1 through 5 herein.

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7. Defendant NVR, Inc. owned, operated, controlled, leased and/or held itself out as owner and/or developer of the land where the Plaintiff, Ilene Feldmann, was walking at the time of the incident.

8. Defendant NVR, Inc. had a number of duties it owed to the Plaintiff, Ilene Feldmann, including, but not limited to a duty to (a) inspect the premises to discover any unreasonably dangerous conditions which they knew or had reason to know existed and to which pedestrians would be exposed, (b) post warnings about any unsafe or unreasonably dangerous conditions in such a way as to ensure that the persons intended to be protected by those warnings would, in fact, be able to see the same and appropriately adjust their conduct, and (c) to otherwise ensure that the land, including but not limited to all roads, sidewalks, medians, curbs and curb aprons was maintained in a reasonably safe condition such that no unreasonable threat of harm would be posed to invitees, customers, visitors or others on the premises.

9. Defendant NVR, Inc. had a duty to perform the necessary treatment, inspections, evaluations, warnings and remediation, to treat, prevent, discover and avoid the dangers which were likely to be or had been created or existed and to take any and all other measures to ensure safe premises for those persons who would be lawfully walking thereon.

10. Defendant NVR, Inc. breached all of the aforesaid duties.

11. As a direct and proximate result of Defendant NVR, Inc.'s negligence, the Plaintiff, Ilene Feldmann, suffered severe bodily injuries, which caused her and will continue to cause her severe physical pain, emotional distress and permanent disability, impairment and disfigurement.

12. As a further direct and proximate result of Defendant NVR Inc.'s negligence, the

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Plaintiff, Ilene Feldmann, has incurred and will continue to incur in the future, substantial sums of money for medical care, attention and other expenses.

13. As a further direct and proximate result of Defendant NVR, Inc.'s negligence, the Plaintiff, Ilene Feldmann, has sustained and will continue to sustain a loss of wages and earning capacity.

**COUNT II**  
**(Defendant Ryan Homes - Negligence)**

14. The Plaintiff, Ilene Feldmann, incorporates by reference allegations of paragraphs 1 through 13 herein, including the allegations as to her damages.

15. Defendant Ryan Homes owned, operated, controlled, leased and/or held itself out as owner and/or development of the land where the Plaintiff, Ilene Feldmann, was walking at the time of the incident.

16. Defendant Ryan Homes had a number of duties it owed to the Plaintiff, Ilene Feldmann, including, but not limited to a duty to (a) inspect the premises to discover any unreasonably dangerous conditions which they knew or had reason to know existed and to which pedestrians would be exposed, (b) post warnings about any unsafe or unreasonably dangerous conditions in such a way as to ensure that the persons intended to be protected by those warnings would, in fact, be able to see the same and appropriately adjust their conduct, and (c) to otherwise ensure that the land, including but not limited to all roads, sidewalks, medians, curbs and curb aprons was maintained in a reasonably safe condition such that no unreasonable threat of harm would be posed to invitees, customers, visitors or others on the premises.

17. Defendant Ryan Homes had a duty to perform the necessary treatment,

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inspections, evaluations, warnings and remediation, to treat, prevent, discover and avoid the dangers which were likely to be or had been created or existed and to take any and all other measures to ensure safe premises for those persons who would be lawfully walking thereon.

18. Defendant Ryan Homes breached all of the aforesaid duties.

19. As a direct and proximate result of Defendant Ryan Homes' negligence, the Plaintiff, Ilene Feldmann, suffered severe bodily injuries, which caused her and will continue to cause her severe physical pain, emotional distress and permanent disability, impairment and disfigurement.

20. As a further direct and proximate result of Defendant Ryan Homes' negligence, the Plaintiff, Ilene Feldmann, has incurred and will continue to incur in the future, substantial sums of money for medical care, attention and other expenses.

21. As a further direct and proximate result of Defendant Ryan Homes' negligence, the Plaintiff, Ilene Feldmann, has sustained and will continue to sustain a loss of wages and earning capacity.

**COUNT III**  
**(Defendant NV Homes - Negligence)**

22. The Plaintiff, Ilene Feldmann, incorporates by reference allegations of paragraphs 1 through 21 herein, including the allegations as to her damages.

23. Defendant NV Homes owned, operated, controlled, leased and/or held itself out as owner and/or development of the land where the Plaintiff, Ilene Feldmann, was walking at the time of the incident.

24. Defendant NV Homes had a number of duties it owed to the Plaintiff, Ilene

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Feldmann, including, but not limited to a duty to (a) inspect the premises to discover any unreasonably dangerous conditions which they knew or had reason to know existed and to which pedestrians would be exposed, (b) post warnings about any unsafe or unreasonably dangerous conditions in such a way as to ensure that the persons intended to be protected by those warnings would, in fact, be able to see the same and appropriately adjust their conduct, and (c) to otherwise ensure that the land, including but not limited to all public roads, sidewalks, medians, curbs and curb aprons was maintained in a reasonably safe condition such that no unreasonable threat of harm would be posed to invitees, customers, visitors or others on the premises.

25. Defendant NV Homes had a duty to perform the necessary treatment, inspections, evaluations, warnings and remediation, to treat, prevent, discover and avoid the dangers which were likely to be or had been created or existed and to take any and all other measures to ensure safe premises for those persons who would be lawfully walking thereon.

26. Defendant NV Homes breached all of the aforesaid duties.

27. As a direct and proximate result of Defendant NVR, Inc.'s negligence, the Plaintiff, Ilene Feldmann, suffered severe bodily injuries, which caused her and will continue to cause her severe physical pain, emotional distress and permanent disability, impairment and disfigurement.

28. As a further direct and proximate result of Defendant NVR Inc.'s negligence, the Plaintiff, Ilene Feldmann, has incurred and will continue to incur in the future, substantial sums of money for medical care, attention and other expenses.

29. As a further direct and proximate result of Defendant NVR, Inc.'s negligence, the Plaintiff, Ilene Feldmann, has sustained and will continue to sustain a loss of wages and earning

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capacity.

**COUNT III**  
**(Defendant Classic Group, LLC- Negligence)**

30. The Plaintiff, Ilene Feldmann, incorporates by reference allegations of paragraphs 1 through 29 herein, including the allegations as to her damages.

31. Defendant Classic Group, LLC owned, operated, controlled, leased and/or held itself out as owner and/or development of the land where the Plaintiff, Ilene Feldmann, was walking at the time of the incident.

32. Defendant Classic Group, LLC had a number of duties it owed to the Plaintiff, Ilene Feldmann, including, but not limited to a duty to (a) inspect the premises to discover any unreasonably dangerous conditions which they knew or had reason to know existed and to which pedestrians would be exposed, (b) post warnings about any unsafe or unreasonably dangerous conditions in such a way as to ensure that the persons intended to be protected by those warnings would, in fact, be able to see the same and appropriately adjust their conduct, and (c) to otherwise ensure that the land, including but not limited to all roads, sidewalks, medians, curbs and curb aprons was maintained in a reasonably safe condition such that no unreasonable threat of harm would be posed to invitees, customers, visitors or others on the premises.

33. Defendant Classic Group, LLC had a duty to perform the necessary treatment, inspections, evaluations, warnings and remediation, to treat, prevent, discover and avoid the dangers which were likely to be or had been created or existed and to take any and all other measures to ensure safe premises for those persons who would be lawfully walking thereon.

34. Defendant Classic Group, LLC breached all of the aforesaid duties.

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35. As a direct and proximate result of Defendant Classic Group, LLC's negligence, the Plaintiff, Ilene Feldmann, suffered severe bodily injuries, which caused her and will continue to cause her severe physical pain, emotional distress and permanent disability, impairment and disfigurement.

36. As a further direct and proximate result of Defendant Classic Group, LLC's negligence, the Plaintiff, Ilene Feldmann, has incurred and will continue to incur in the future, substantial sums of money for medical care, attention and other expenses.

37. As a further direct and proximate result of Defendant Classic Group, LLC's negligence, the Plaintiff, Ilene Feldmann, has sustained and will continue to sustain a loss of wages and earning capacity.

**COUNT III**  
**(Defendant Montgomery County - Negligence)**

38. The Plaintiff, Ilene Feldmann, incorporates by reference allegations of paragraphs 1 through 37 herein, including the allegations as to her damages.

39. Defendant Montgomery County, Maryland is responsible for the maintenance of all public roadways, medians and sidewalks, including the location where the Plaintiff, Ilene Feldmann, was walking at the time of the incident.

40. Defendant Montgomery County had a number of duties it owed to the Plaintiff, Ilene Feldmann, including, but not limited to a duty to (a) inspect the premises to discover any unreasonably dangerous conditions which they knew or had reason to know existed and to which pedestrians would be exposed, (b) post warnings about any unsafe or unreasonably dangerous conditions in such a way as to ensure that the persons intended to be protected by those warnings

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would, in fact, be able to see the same and appropriately adjust their conduct, and (c) to otherwise ensure that the land, including but not limited to all public roads, sidewalks, medians, curbs and curb aprons was maintained in a reasonably safe condition such that no unreasonable threat of harm would be posed to invitees, customers, visitors or others on the premises.

41. Defendant Montgomery County had a duty to perform the necessary treatment, inspections, evaluations, warnings and remediation, to treat, prevent, discover and avoid the dangers which were likely to be or had been created or existed and to take any and all other measures to ensure safe premises for those persons who would be lawfully walking thereon.

42. Defendant Montgomery County breached all of the aforesaid duties and as a result the Plaintiff sustained the injuries and damages alleged.

43. The Plaintiff, Ilene Feldmann, has complied with all conditions precedent to the maintaining of this claim and lawsuit.

44. Defendant Montgomery County breached all of the aforesaid duties.

45. As a direct and proximate result of Defendant Montgomery County's negligence, the Plaintiff, Ilene Feldmann, suffered severe bodily injuries, which caused her and will continue to cause her severe physical pain, emotional distress and permanent disability, impairment and disfigurement.

46. As a further direct and proximate result of Defendant Montgomery County's negligence, the Plaintiff, Ilene Feldmann, has incurred and will continue to incur in the future, substantial sums of money for medical care, attention and other expenses.

47. As a further direct and proximate result of Defendant Montgomery County's negligence, the Plaintiff, Ilene Feldmann, has sustained and will continue to sustain a loss of

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wages and earning capacity.

WHEREFORE, Plaintiff, Ilene Feldmann, requests that a judgment be entered in her favor and against Defendants NVR, Inc., Ryan Homes, NV Homes, Classic Group, LLC and Montgomery County, jointly and severally, for Six Hundred Thousand Dollars (\$600,000.00), together with interest and the cost of the suit filed herein, as well as such further and additional relief as the nature of this case may require and which this Honorable Court deems just and proper.

Respectfully submitted,

ASHCRAFT & GEREL, LLP



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Attorney for Plaintiff

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**JURY DEMAND**

The plaintiff demands a trial by jury on all issues raised herein.

  
Stephen M. Gensemer, Esq.

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